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REQUEST FOR PROPOSALS

INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SERVICES

RFP 6-080115

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LIST OF ACRONYMS

MHTC	Missouri Highways and Transportation Commission
MoDOT	Missouri Department of Transportation
RFP	Request for Proposals

INTRODUCTION

This Request For Proposals (**RFP**) seeks proposals from qualified organizations (**Offeror**) to furnish the described services to the Missouri Highways and Transportation Commission (**MHTC**). One original and (5) copies of each proposal must be mailed in a sealed envelope to, Missouri Department of Transportation, Post Office Box 270, Jefferson City, Missouri 65102, or hand-delivered in a sealed envelope to the General Service Procurement Office in the Highway and Transportation Building at 830 MoDOT Drive, Jefferson City, Missouri 65109. Proposals must be returned to the offices of General Services Procurement no later than 2:00 p.m., January 15, 2008.

As specified in this RFP, MHTC reserves the right to negotiate clarifications and modifications of any or all proposals through MoDOT staff, prior to making any contact award. MHTC reserves the right to reject any and all responses for any reason whatsoever. Time is of the essence for responding to the RFP within the submission deadlines.

PROPOSAL

- (1) The Offeror shall provide a fee proposal to MHTC on the **PRICE PAGE** in accordance with the terms of this RFP.
- (2) The Offeror agrees to provide the services at the fees quoted, under the terms of this RFP.

Authorized Signature of Offeror: _____

Date of Proposal: _____

Printed or Typed Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Electronic Mail Address: _____

ACCEPTANCE

This proposal is accepted by MHTC.

(Name and Title)

Date

**SECTION (1):
GENERAL DESCRIPTION AND BACKGROUND**

- (A) **Request for Proposal:** This document constitutes a RFP from qualified organizations to provide annual audit services to the MHTC for the combined financial statements of MoDOT as of and for the fiscal years ended June 30, 2008 through June 30, 2010.

Proposals are being solicited from Independent Certified Public Accountants who have experience in governmental accounting and auditing for an organization such as MoDOT. Work should begin no later than necessary to meet the reporting deadlines specified in the scope of work section of this announcement. The Offeror must currently be licensed by, and in good standing with, the Missouri State Board of Accountancy. Details of the scope of work, proposal format and Offeror selection process are contained in this announcement.

- (B) **Background:** Offerors should refer to the MoDOT fiscal year 2007 audited financial statements for the most current and comprehensive description of MoDOT's operations. These documents can be viewed at the following link:

http://www.modot.mo.gov/about/general_info/Financial_Statements.htm

- (C) **Fiscal Year:** The fiscal year runs from July 1-June 30.
- (D) **Contract Period:** The original contract period will be from notice to proceed through the performance of the fiscal year 2010 audit.
- (E) **Extension:** The contract shall not bind, nor purport to bind, MHTC for any contractual commitment in excess of the original contract period. The MHTC shall have the right, at its sole option, to extend the contract for up to two (2) annual audit periods, or a portion thereof. In the event that MHTC exercises its options, all terms, conditions, and provisions of the original contract shall remain the same and apply during the extension period. If the options are exercised, the Offeror shall agree that the prices stated in the original contract shall not be increased in excess of the renewal periods' pricing, if any, stated on the pricing page of the contract. If the pricing page does not include such prices, or if the applicable spaces are left blank, prices during extension periods shall be the same as during the original contract period. The MHTC does not automatically exercise its options based upon the maximum renewal price without documented justification supporting an increase and reserves the right to offer or to request an extension of the contract at a price less than the renewal price.
- (F) **Pre-Submission Information on the RFP and Proposal Requirements:** Any pre-submission question, comment, concern or request for clarification regarding the RFP or proposal requirements should be submitted by facsimile transmission, electronic mail (e-mail), phone, or in writing to:

Ms. Leann Kottwitz
Missouri Department of Transportation
830 MoDOT Drive, P.O. Box 270
Jefferson City, Missouri 65102-0270
Telephone No: (573) 751-3685
Facsimile No: (573) 526-1218
E-mail Address: leann.kottwitz@modot.mo.gov

All written questions must be addressed to Leann Kottwitz no later than **10:00 a.m., CST, December 27, 2007**. Once all the questions are gathered, MoDOT will issue an addendum and post the responses to all questions on-line for Offeror to retrieve. It is the responsibility of the Offeror to retrieve any and all addendums on-line.

- (G) **RFP Schedule Of Events:** The following RFP Schedule of Events represents MoDOT's best estimate of the schedule that shall be followed. Unless otherwise specified, the time of day for the following events shall be between 7:30 am and 4:00 pm, Central Standard Time.

MoDOT reserves the right at its sole discretion to expand this schedule, as it deems necessary, without any notification except for the deadline date for submitting a response

Event	Date	Time
MoDOT Issues RFP	December 17, 2007	10:00 am (CST)
Deadline for Written Comments	December 27, 2007	10:00 am
Deadline for MoDOT Issuing Responses to Written Comments	January 03, 2008	2:00 pm
Deadline for Submitting a Proposal	January 15, 2008	2:00 pm
Present Recommendation For Commission Approval	February 6, 2008	2:00 pm

**SECTION (2):
SCOPE OF WORK**

- (A) **Services:** The Offeror shall provide the following professional services:

Provide annual audit services to the MHTC for the combined financial statements of MoDOT as of and for the fiscal years ended June 30, 2008 through June 30, 2010.

- (B) **Specific Requirements:** The Offeror will provide to the General Services Procurement Unit one original and five copies of a program proposal which will include the following:

Audit: The Offeror will be required to perform annual examinations of MoDOT's combined financial statements in accordance with generally accepted government auditing standards for the state fiscal years ended June 30, 2008 through June 30, 2010. The audits should provide reasonable assurance about whether the financial statements are free of material misstatements. This should include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; assessing the accounting principles used and significant estimates made by management; and evaluating the overall financial statement presentation. Additionally, the Offeror will present any audit findings and audit report to the Audit Committee and to the MHTC.

Audit Reports: The Offeror will provide MoDOT with 50 copies of the annual comprehensive report and an electronic version thereof. MoDOT will prepare the comprehensive annual financial report and cover and provide to the Offeror, with the Offeror including the Independent Accountants' Report on Financial Statements and Supplementary Information, as well as any other reports required by the profession.

Reporting requirements and deadlines are contained in 21.795 RSMo and in the MHTC Master Bond Indenture. To allow for sufficient preparation for those reporting requirements, the reports must be completed by each September 30.

Control and Compliance Reports: The Offeror will report on MoDOT's system of internal control over financial reporting and MoDOT's compliance with certain provisions of laws, regulations, contracts, and grant agreements.

Potential Additional Consultant Work, As Requested: MHTC reserves the right, and it shall be a term and condition of the final Agreement, that MHTC's representative may request the Offeror to perform additional consultant work, of the same general nature as that described above, during the contract period. However, the hourly wage rates and expense costs for this additional work must remain the same as those bid for the contract work specified during the contract period. Therefore, those wage rates and expense costs must remain fixed for the entire contract period, and during the time required for completion of any additional tasks requested by MHTC's representative during the contract period, for up to an additional six (6) months.

(C) **Administration of Program:** The Offeror will consult MHTC's representative regarding any problems involved with the administration of the services provided pursuant to this RFP.

SECTION (3): AGREEMENT REQUIREMENTS

This RFP shall be governed by the following contract provisions. The award of this RFP is subject to a post-award negotiated contract. These same contract provisions will appear in the post-award negotiated contract. If the parties are unable to agree to terms in the post-award contract, MHTC shall reserve the right to cancel the award of the RFP and contract and select a different offeror.

- (A) **MHTC's Representative:** MoDOT's Chief Financial Officer is designated as MHTC's representative for the purpose of administering the provisions of the Agreement as defined in Paragraph (E) of this section. MHTC's representative may designate by written notice other persons having the authority to act on behalf of MHTC in furtherance of the performance of the Agreement. The Offeror shall fully coordinate its activities for MHTC with those of the Chief Financial Officer. As the work of the Offeror progresses, advice and information on matters covered by the Agreement shall be made available by the Offeror to the Chief Financial Officer throughout the effective period of the Agreement.

Each Offeror is to include the name, title, location, email information, phone and fax numbers of its officer whom the Offeror would designate as its representative, for the purpose of administering the Agreement and receiving notices concerning the performance of the Agreement.

- (B) **Release to Public:** No material or reports prepared by the Offeror shall be released to the public without the prior consent of MHTC's representative.
- (C) **Assignment:** The Offeror shall not assign or delegate any interest, and shall not transfer any interest in the services to be provided (whether by assignment, delegation, or novation) without the prior written consent of MHTC's representative.
- (D) **Status as Independent Contractor:** The Offeror represents itself to be an independent contractor offering such services to the general public and shall not represent itself or its employees to be an employee of MHTC or MoDOT. Therefore, the Offeror shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, or other such benefits or obligations.
- (E) **Components of Agreement:** The Agreement between MHTC and the Offeror shall consist of: the RFP and any written amendments thereto, the Standard Solicitation Provisions and General Terms and Conditions that are attached to this RFP, the proposal submitted by the Offeror in the response to the RFP and the post-award contract agreement signed between the parties. However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall govern in case of conflict with

the applicable requirements stated in the RFP or the Offeror's proposal. The Offeror is cautioned that its proposal shall be subject to acceptance by MHTC without further clarification.

(F) **Amendments:** Any change in the Agreement, whether by modification or supplementation, must be accompanied by a formal contract amendment signed and approved by the duly authorized representative of the Offeror and MHTC.

(G) **DBE/WBE Participation Encouraged:**

1. Offerors are encouraged to submit copies of existing affirmative action programs, if any. Offerors are also encouraged to directly hire minorities and women as direct employees of the Offeror. MHTC reserves the right to consider the use of minority and female employee when making the award of the Agreement.
2. Regardless of which persons or firms, if any, that the Offeror may use as subcontractors, subOfferors, or suppliers of goods or services for the services to be provided, the Offeror ultimately remains responsible and liable to MHTC for the complete, accurate and professional quality/performance of these services.

(H) **Nondiscrimination:** The Offeror shall comply with all state and federal statutes applicable to the Offeror relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).

(I) **Executive Order:** The Offeror shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

1. By signing this Agreement, the Offeror hereby certifies that any employee of the Offeror assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law.

2. In the event the Offeror fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the Offeror has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

(J) **Incorporation of Provisions:** The Offeror shall include the provisions of Section (3), paragraph I of this Agreement in every subcontract. The Offeror shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

- (K) **Bankruptcy:** Upon filing for any bankruptcy or insolvency proceeding by or against the Offeror, whether voluntarily, or upon the appointment of a receiver, Offeror, or assignee, for the benefit of creditors, MHTC reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Offeror responsible for damages.
- (L) **Law of Missouri to Govern:** The Agreement shall be construed according to the laws of the state of Missouri. The Offeror shall comply with all local, state and federal laws and regulations relating to the performance of the Agreement.
- (M) **Cancellation:** MHTC may cancel the Agreement at any time by providing the Offeror with written notice of cancellation. Should MHTC exercise its right to cancel the Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Offeror.
- (N) **Venue:** No action may be brought by either party concerning any matter, thing or dispute arising out of or relating to the terms, performance, nonperformance or otherwise of the Agreement except in the Circuit Court of Cole County, Missouri. The parties agree that the Agreement is entered into at Jefferson City, Missouri, and substantial elements of its performance will take place at or be delivered to Jefferson City, Missouri, by reason of which the Offeror consents to venue of any action against it in Cole County, Missouri.
- (O) **Ownership of Reports:** All documents, reports, exhibits, etc. produced by the Offeror at the direction of MHTC's representative and information supplied by MHTC's representative shall remain the property of MHTC.

The reports, in their entirety, as presented to the MHTC and accepted by the MHTC, are public documents. The MHTC and MoDOT reserve the right to include the reports, as presented, in other documents, such as the annual Accountability Report, future offering statements, on the Internet, etc., without further review by the Offeror. If the Offeror elects to perform additional subsequent event procedures, there will be no additional charges to the MHTC or MoDOT.

- (P) **Confidentiality:** The Offeror shall not disclose to third parties confidential factual matters provided by MHTC's representative except as may be required by statute, ordinance, or order of court, or as authorized by MHTC's representative. The Offeror shall notify MHTC immediately of any request for such information.
- (Q) **Nonsolicitation:** The Offeror warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Offeror, to solicit or secure the Agreement, and that it has not paid or agreed to pay any percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MHTC shall have the right to annul the Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- (R) **Conflict of Interest:** The Offeror covenants that it presently has no actual conflict of

interest or appearance of conflict of interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services under this Agreement. The Offeror further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in this Agreement.

- (S) **Maintain Papers:** The Offeror must maintain all working papers and records relating to the Agreement. These records must be made available at all reasonable times at no charge to MHTC and/or the Missouri State Auditor during the term of the Agreement and any extension thereof, and for three (3) years from the date of final payment made under the Agreement.

1. MHTC's representative shall have the right to reproduce and/or use any products derived from the Offeror's work without payment of any royalties, fees, etc.
2. MHTC's representative shall at all times have the right to audit any and all records pertaining to the services.

- (T) **Indemnification:** The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

(U) **Insurance:**

- (1) Prior to contract signing, the Offeror may be asked about its ability to provide certificates of insurance which meet, or approach, the following coverages:

a. General Liability	Not less than \$400,000 for any one person in a single accident or occurrence, and not less than \$2,500,000 for all claims arising out of a single occurrence;
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b. Automobile Liability	Not less than \$400,000 for any one person in a single accident or occurrence, and not less than \$2,500,000 for all claims arising out of a single occurrence;
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c. Missouri State Workmen's Compensation policy or equivalent in accordance with state law.	
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- (V) **Invoices:** The Offeror must submit invoices on a monthly basis to MHTC's representative.

- (W) **Payment:** Each payment due the Offeror shall be made by MHTC in accordance with the provisions of Section 34.057, RSMo, for those services which have been furnished under the contract. Payment shall be made monthly after MHTC's representative

receives a properly itemized invoice for the contract work performed and the expenses incurred in the prior month. Payment to the Firm will be made to the address specified in the Request For Proposal (RFP) unless the Firm has specified a different address in writing or unless a court of law specified otherwise.

**SECTION (4):
PROPOSAL SUBMISSION INFORMATION**

(A) SUBMISSION OF PROPOSALS

1. **Pricing and Signature:** Proposals should be priced, signed and returned (with necessary attachments) to Ms. Leann Kottwitz, as provided in this RFP. Specifically, any form containing a signature line in this RFP and any amendments, pricing pages, etc., must be manually signed and returned as part of the proposal.
2. **Submission of All Data Required:** The Offeror must respond to this RFP by submitting all data required in paragraph (B) below for its proposal to be evaluated and considered for award. Failure to submit such data shall be deemed sufficient cause for disqualification of a proposal from further consideration. **Proposals should be limited to fifteen pages (excluding cover letter).**
3. **Public Inspection:** The Offeror is hereby advised that all proposals and the information contained in or related thereto shall be open to public inspection and that MHTC does not guarantee nor assume any responsibility whatsoever in the event that such information is used or copied by individual person(s) or organization. Therefore, the Offeror must submit its proposal based on such conditions without reservations.
4. **Clarification of Requirements:** Any and all questions regarding specifications, requirements, competitive procurement process, or other questions must be directed to:

Ms. Leann Kottwitz
Missouri Department of Transportation
830 MoDOT Drive, P.O. Box 270
Jefferson City, Missouri 65102-0270
Telephone No: (573) 751-3685
Facsimile No: (573) 526-1218
E-mail Address: leann.kottwitz@modot.mo.gov

All written questions must be addressed to Leann Kottwitz no later than **10:00 a.m., CST, December 27, 2007**. Once all the questions are gathered, MoDOT will issue an addendum and post the responses to all questions on-line for Offeror to retrieve. It is the responsibility of the Offeror to retrieve any and all addendums on-line.

5. **Interview Conference.** An interview conference with the Offeror may be conducted prior to award, if deemed necessary. In addition, the Offeror may be

asked to make an oral presentation of its proposal during the interview conference. Travel and attendance costs for the interview conference shall be at the Offeror's own expense. All arrangements and scheduling shall be coordinated by MoDOT's Controller or his (her) designee.

6. **Joint Proposals.** Offerors may submit joint proposals. However, MHTC reserves the right to make the final selection of all Offerors, regardless of the nature of any joint proposals submitted. MHTC also reserves the right to negotiate clarifications or modifications to the final compensation terms with the successful Offeror or Offerors.

(B) REQUIRED ELEMENTS OF PROPOSAL

1. **Experience.** Experience and reliability of the Offeror's organization is considered in the evaluation process. Therefore, the Offeror is to submit specific information as required in Exhibit A that documents successful and reliable experience in the past five (5) years related to the audit of state level transportation departments or similar organizations. This information may be shown on Exhibit A, or organized in a similar manner.
2. **Staffing - Personnel:** The qualifications of the personnel proposed by the Offeror will be considered in the evaluation, as will the accessibility of the partner, manager, and in-charge. Therefore, the Offeror should submit detailed information as required in Exhibit B related to the experience and qualifications of the key personnel proposed to work on any portion of this agreement. This information may be shown on Exhibit B, or organized in a similar manner.
3. **Credentials:**
List any disciplinary action imposed by the AICPA, state board, state society, or SEC during the past five years.

List any significant pending legal action involving the Offeror.

Provide a copy of the most recent peer review report of the Offeror.
4. **Proposed Method of Performance:** The Firm's distinctive plan for performing the requirements of the RFP will be considered in the evaluation process.

Present a written narrative that demonstrates the method or manner in which the Firm proposes to satisfy the requirements of the Scope of Work. The method by which the proposed method of performance is written is left to the discretion of the Firm.

Provide an organizational chart showing the staffing and line of authority for key professional staff and administrative personnel to be used in performing the proposed work. The relationship of the project leader to management and to support personnel should be clearly illustrated. Address the level of commitment the Firm would make to the continuity of the audit team for the next three years.

Describe, in detail, the level of involvement that the Firm expects of MoDOT's Audits and Investigations (AI) unit. The audit should be priced with and without this expected level of involvement. The AI unit is available for 400 hours.

5. **Fee Schedule:** Submit a firm, fixed fee as required in Section 5. NOTE: Open-ended mileage or per diem charges may cause a proposal to be considered non-responsive.

(C) EVALUATION CRITERIA AND PROCESS

1. **Evaluation Factors:** Any agreement for services resulting from this RFP shall be awarded to the Offeror providing the best proposal to MHTC. After determining responsiveness, proposals will be evaluated in accordance with the following criteria:

A. Experience;	30 Maximum Pts.
B. Proposed Method of Performance;	25 Maximum Pts.
C. Staffing;	15 Maximum Pts.
D. Credentials;	10 Maximum Pts.
E. Fees and expenses.	20 Maximum Pts.
2. **Historic Information:** MHTC reserves the right to consider historic information and facts, whether gained from the Offeror's proposal, question and answer conferences, references, or other sources, in the evaluation process.
3. **Responsibility to Submit Information:** The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that MHTC's representative is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.

(D) PRICING

1. **Fee Schedule:** The Offeror must submit a proposed fee for all services defined in the Scope of Work. This fee must be shown on Section (5), Price Page, of this proposal which must be completed, signed and returned with the Offeror's proposal.

**SECTION (5):
PRICE PAGES**

- (A) **FEE SCHEDULE:** The Offeror shall indicate below all fees for providing services in accordance with the provisions and requirements stated herein:

Fee for services: fiscal year 2008 audit

- A. With 400 hrs AI Support \$ _____ Firm, fixed fee
- B. Without AI Support \$ _____ Firm, fixed fee
- C. Estimated out-of-pocket expenses: \$ _____ Estimated with cap
- D. Additional consultant work not related to audit: \$ _____ Hourly rate
-

Fee for services: fiscal year 2009 audit

- A. With 400 hrs AI Support \$ _____ Firm, fixed fee
- B. Without AI Support \$ _____ Firm, fixed fee
- C. Estimated out-of-pocket expenses: \$ _____ Estimated with cap
- D. Additional consultant work not related to audit: \$ _____ Hourly rate
-

Fee for services: fiscal year 2010 audit

- A. With 400 hrs AI Support \$ _____ Firm, fixed fee
- B. Without AI Support \$ _____ Firm, fixed fee
- C. Estimated out-of-pocket expenses: \$ _____ Estimated with cap
- D. Additional consultant work not related to audit: \$ _____ Hourly rate

**SECTION (5):
PRICE PAGES**

The contract shall not bind, nor purport to bind, MHTC for any contractual commitment in excess of the original contract period. The MHTC shall have the right, at its sole option, to extend the contract for up to two (2) annual audit periods, or a portion thereof. In the event that MHTC exercises its options, all terms, conditions, and provisions of the original contract shall remain the same and apply during the extension period. If the options are exercised, the Offeror shall agree that the prices stated in the original contract shall not be increased in excess of the renewal periods' pricing, if any, stated on the pricing page of the contract. If the pricing page does not include such prices, or if the applicable spaces are left blank, prices during extension periods shall be the same as during the original contract period. The MHTC does not automatically exercise its options based upon the maximum renewal price without documented justification supporting an increase and reserves the right to offer or to request an extension of the contract at a price less than the renewal price.

First Extension (fiscal year 2011 audit) _____ % of maximum increase and/or
_____ % of minimum decrease

Second Extension (fiscal year 2012 audit) _____ % of maximum increase and/or
_____ % of minimum decrease

Signature of Offeror's Authorized Representative

Date Signed

EXHIBIT A
FIRM'S PRIOR EXPERIENCE

(Duplicate this page, or supply the information it requests, for each Firm and contract listed.)

PRIOR SERVICES PERFORMED FOR:

AGENCY NAME _____

CONTACT PERSON _____ TITLE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE _____ FAX NUMBER _____

E-MAIL ADDRESS _____

CONTRACT PERIOD: FROM _____ TO _____

SUMMARY OF SERVICES PERFORMED:

EXHIBIT B
PROFESSIONAL AND ADMINISTRATIVE STAFF
BACKGROUND AND EXPERTISE

(Duplicate this page, or supply the information it requests, for each professional and administrative staff member who will be assigned to perform or supervise work under the Agreement, including the in-charge. If staff assigned to the audit change, the Firm will be required to submit updated professional and administrative staff background and expertise exhibits prior to assigning staff to the audit. The MHTC reserves the right to review the expertise prior to the individual performing the audit.)

STAFF MEMBER

(Name) (Title or Position)

Specific Role in this Contract Work: _____

Experience/Previous Related Work Assignments: _____

Educational Qualifications: _____

Previous Government Experience: _____

STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted.
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
 - 1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.

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- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
 - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Executive Order

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
 - 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
 - 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
 - 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

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Preferences

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
 - 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
 - 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

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Status of Independent Contractor

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.